

**CONSENSUAL AGREEMENT BETWEEN GOVERNMENT OF KARNATAKA AND THE KARNATAKA UNAIDED PRIVATE ENGINEERING COLLEGES' ASSOCIATION (KUPECA) IN THE MATTER OF REGULATING ADMISSIONS AND FEE STRUCTURE TO THE UNDER GRADUATE COURSES IN PRIVATE PROFESSIONAL COLLEGES OF ENGINEERING/ARCHITECTURE FOR THE ACADEMIC YEAR 2019-20.**



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**PRELIMINARY**

In the light of the pronouncements, of the Hon'ble Supreme Court of India, in cases of TMA Pai Foundation [(2002) 8 SCC 481] and, as explained in P.A. Inamdar [(2005) 6 SCC 537]; as to the permissible Regulations and restrictions imposed by the State Government; on the rights of the Managements of Private Un-aided Professional Colleges in the context of their 'rights of Management' that are guaranteed under the Constitution, and; in furtherance of the Constitutional Amendment [by 93<sup>rd</sup> Amendment Act ] to Article 15 (5) of the Constitution enabling to provide for 'special provisions' for reservations, in the matter of admissions to 'professional courses' in private institutions; seeking to so provide for; under its Policy of Reservation; State of Karnataka having enacted, Act.No. 8 of 2006 regulating 'admission process' and, 'determination of fee structure' in private professional colleges and;

**Whereas;** in the process of enforcing / implementing them having found it necessary to further the interests of some sections of students of Karnataka entitled to the benefits of its Reservation Policy; having further agreed during the deliberations that took place between the Government and the Private Professional Institutions Associations and their representatives for 'working out' a suitable 'consensual arrangement' for admission to professional courses for 2019-20 by keeping the Act No.8 of 2006 in abeyance for 2019-20.

**And whereas,** with an intention to provide adequate and better access to Engineering Education to the students of the State, Government had, in the past, made appeals periodically, to the 'Karnataka Unaided Private Engineering Colleges Association' [KUPECA] seeking its co-operation, for a suitable consensual agreement as enabled/permissible under the decision of the Hon'ble Supreme Court, in P.A Inamdar's case and by the provisions of Act No.13 of 2006, 23 of 2007, 23 of 2012, 50 of 2013, 29 of 2014 and 39 of 2015.





**And whereas,** the State Government and the managements of private professional colleges, since then, having worked out periodically under different consensual arrangements, providing for seat sharing, process of admissions and determination of fee structure; etc., and said arrangements/consensual agreements, having been given effect to, the Hon'ble Supreme Court having directed and permitted the parties to the consensual arrangement to work out the same for the started respective academic years and;

**And whereas;** both the parties having found it satisfactory, fair and reasonable and necessary to continue such arrangements for the ensuing academic year as well; having called for deliberations in this regard and having had extensive consultations and keeping in view the need for effectively implementing the Reservation Policy of the State as well as, facilitating better access to professional courses to the students of State and simultaneously maintain high standards and improving quality of education being imparted to the students community, have decided to provide for this 'consensual agreement'; on similar terms as before; with required modifications;

**And whereas;** members of KUPECA having met and deliberated on the request and resolving to adopt a policy in tune with reservation policy of the State and to participate and contribute to the welfare measures of the State; and though during the deliberations, there were several opinions as to inappropriateness of method of admissions resulting in interference with their rights of administration and the inadequacy of funding, due to issues like, implementation of seventh pay commission pay scales, implementation of new policy of imparting of free education by creating supernumerary additional intake of 5% in Engineering Colleges, etc., and the high costs for imparting quality education, keeping in view the larger interest of the students and at the same time, assurances by the Government of ensuring 'viability of the institutions' and their growth by providing appropriate minimum of funding and to take all steps that are necessary to give legal sanction for the arrangements; and keeping in view the time constraint and the need to achieve certainty, it was decided and it is agreed now between the State Government and Karnataka Unaided Private Engineering Colleges' Association [KUPECA], that following Consensual Agreement, set out in the detailed terms / conditions of agreement as hereunder, being within the framework of law, as contemplated under P.A Inamdar's decision, be implemented for the academic year 2019-20 in the under graduate courses, imparted by private institutions, as set out hereunder:





A. GENERAL

- 1] During the deliberations of fee between the Government and KUPECA, Government insisted that KUPECA colleges should adhere to the Fee fixed by Fee Fixation Committee constituted under Karnataka Professional Educational Institution ACT (Regulation of Admission and Determination of Fee) 2006. But KUPECA said that due to increase in Admission and Salary Expenditure it is not possible to run the Institutions as per the above fixed fees.
- 2] In the light of the discussions held between the Government and KUPECA it was desired to work out 'consensual arrangement' in terms of implementation of the provisions of Act No.8 of 2006 including there under constituted 'Fee Determination Committee's recommendations; parties hereby agree, among others, providing for, hereunder spelt out, suitable and appropriate fee structure, seat sharing and admission process, by issuance of a Gazette notification incorporating 'the terms' hereunder, before the commencement of admission process, giving this arrangement by consensus, a statutory support.
- 3] That, it is agreed between the parties that, to an extent of an additional quota of 5% of total intake available in each of the Engineering colleges, as per the directions of the regulatory bodies like UGC/AICTE, shall be filled by the Government as free category students keeping in view such guidelines issued in this behalf and Government Order to be issued in this behalf.
- 4] That it is agreed between the parties that the regulatory authorities, including VTU etc. be associated in working out this 'consensual arrangement' and, State Government would issue appropriate directions as a 'policy of the Government' and, ensure that affiliating Universities take note of the terms and working of agreement for the purpose of approval of admissions etc.,





**B. SEAT SHARING AND ADMISSIONS**

1] Members of KUPECA would make it available/hand-over 45% of seats, out of the total intake available, in each of their member-Engineering Colleges to the Government's CET Cell, Karnataka Examinations Authority (KEA), for counseling and allocation of seats, based on merit as per ranking to be determined/assigned by the Common Entrance Test, being conducted by the Governmental agency – KEA and as per Rules framed for the purpose.

2] It is stipulated that, the counseling by KEA shall be conducted as per the calendar of events, prescribed by the regulating authorities- AICTE / UGC / Council of Architecture/Affiliating Universities respectively. It is stipulated that, if any seats remain unfilled/vacant, at the end of casual round of counseling by KEA/CET Cell and additional round of counseling shall be held by KEA for those candidates who gain eligibility in the qualifying supplementary examination and all seats unfilled at the end of the casual vacancy round shall automatically be taken over by KEA for counseling for students found eligible in the qualifying examination. All the balance seats would revert back to the Association / its member institutions for its appropriate counseling/allotment, to its general merit category candidates or being filled by the respective colleges as casual vacancies or as may be decided by the Association. The reversion of seats would happen after reconciliation with KEA.

3] Thus out of the total intake, deducting 45% of seats being handed over; effectively 55% of seats under 'sanctioned intake' in each college remain with the Managements/ KUPECA and same shall be filled as under:

a) 30% of total intake seats in each of the KUPECA member Engineering Colleges/Institutions; shall be filled by General Merit candidates, through COMED-K conducted entrance test followed by centralized counseling on an all India level basis. In case any of the COMED-K-Member Engineering Institutions for Engineering Colleges desire to have their 30% or less intake of seats to be filled through KEA, they can surrender the seats to Government / KEA before 30<sup>th</sup> June 2019. The fees for such management-surrendered seats to the KEA shall be the Government fees.

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- b) The remaining 25% (15+10) of total intake seats in each of the COMED-K member Engineering Colleges/Institutions could be filled up from among NRIs/NRI sponsored [15%] and / or on institutional or other local preferences [10%] and if no candidate is available for this category allocated; these can be filled by any other academically eligible candidate as per norms from amongst applicant/s to the respective individual institutions; treating them on par with this category admissions as to the tuition fee liability; they can surrender the seats to Government / KEA before 30<sup>th</sup> June 2019. The fees for such management-surrendered seats to the KEA shall be the Government fees
- 4) As indicated above, to an extent of an additional quota of 5% of total intake (supernumerary) available in each of the engineering colleges, as per UGC/AICTE policy directions shall be filled by the Governmental agencies, as free category students, keeping in view UGC/AICTE guidelines issued in this behalf.

### **C. SEAT SHARING AND ADMISSIONS IN RESPECT OF MINORITY**

#### **EDUCATIONAL INSTITUTIONS**

Seat sharing ratio, in respect of Minority Educational Institutions (MEI) who are members of KUPECA / COMED-K shall be on par with, that of members of KRLMPCA, that may be agreed upon. It would be at the option of the MEI members of KUPECA /COMED-K; to seek and opt for the appropriate ratio, worked out with applicable fee structure either under this agreement or ratio worked out with applicable fee structure for KRLMPCA, if any; as they may choose to indicate and opt prior to the commencement of counseling process. That admission process for MEIs would be in accordance with 'preferences' available to them [minorities] as detailed in formulated policy for the MEI members of COMED-K, as was previously adopted.

#### **D. FEE STRUCTURE**

- a) Keeping in view the deliberations that took place between the Government and the Associations of private professional managements, expressing desire to work out a 'consensual agreement' for the academic year 2019-20, in terms of power conferred under clause 4A of the Act No.8. 2006; in place





of implementation of the provisions of the other provisions of the Act No.8 of 2006 including thereunder constituted 'fee determination committees' recommendations; parties hereby agree, to provide for a suitable and appropriate fee structure as hereunder, by issuance of a Gazette Notification under the provision of the Karnataka Educational Institutions (Prohibition of Capitation Fees)Act, 1984 and the proposed requisite legislation/enactment with special provisions to enter into consensual agreement.

- b] It is decided after elaborate discussions and consideration of materials placed before the authorities of the Government it is agreed that, keeping in view the interest of the student community, to retain the fee structure and seat sharing as indicated in the agreement.
- c] KUPECA considering the request by the State Government, has now resolved to extend the same gestures by way of 'scholarship' to socially and economically weaker sections and others; and participate in social welfare measures/schemes of the Government. Therefore, it is proposed and provided that for all seats made over to the Government, by the KUPECA colleges will extend the 'freeships and scholarships by way of fee concessions' from the fees actually being charged by each of the KUPECA Institutions for the current year; by way of scholarships, under this consensual arrangement; out of additional fees receivable from the category of students falling under NRIs and others.
- d] That, all Government CET (KEA) and COMED-K allotted candidates would pay all the fees at the time of allotment of seats; and/ or while seeking admission under the allotment, as may be prescribed and notified. Fee structure shall be binding on all the students admitted by the respective colleges; through COMED-K and Government's CET for the 2019-20 batch; every year till the completion of their study. Appropriate Mechanism will be put in place to transfer fees to colleges for Government subsidized category of students, so that Management does not take fees from such students.
- e] Following average, and uniform fee structure, worked out by the parties, based on assessment of need for imparting quality education, to meet the appropriate standards of education, with appropriate benefit of concessions



would govern the admissions for the batch of students, being admitted for the under graduate courses for the academic year 2019-20.

- f] This consensual agreement regarding fee structure for 2019-20 shall prevail over and supersede any fee structure notified/to be notified by the State Government pursuant to any report of any committee appointed in this behalf.
- g] These 'Fees' prescribed are to be notified by the Government in the official gazette and are payable by respective category of students, per year, throughout the course and are as under:

**E. COSTS ASSESSED AND FEE PAYABLE**

- a) Government (CET) candidates [45% of intake/seats] shall be extended an appropriate scholarship/freeship by the private managements, out of funding through fee structure worked out for NRIs and other category; and effectively the fees after such concessions, shall be: Rs.58,806/- or Rs.65,340/ p.a. as may be applicable, as opted by different colleges, before the commencement of the counseling.
- b) COMED-K candidates [30% of seats]: Not exceeding Rs.2,01,960 p.a. or Rs.1,43,748/- p.a. as may be applicable, as opted by different colleges, before the commencement of the counseling.
- c) NRIs & NRI sponsored or others in the said category [25% of seats]: an upper limit of fees payable, including development fees for the entire course and, modalities of payment shall be notified by each of the private institutions, and fees shall be collected accordingly. Such notification shall be issued on or before 31<sup>st</sup> May 2019.
- d) In consideration of few rural or mofusil based Institutions' requests; it is agreed that; there shall be two types of fees; leviable-
- i) In the event of private managements, opting for an upper limit fee of Rs.2,01,960/- for COMEDK candidates, the fee for Government sponsored students shall be Rs. 58,806/- p.a.





- ii) In the event of private managements opting for an upper limit fee of Rs.1,43,748/- for COMEDK candidates, the fee for govt. sponsored students shall be Rs.65,340/- p.a.
- iii) COMED-K candidates (30%) likewise fall either under opted category Rs.2,01,960/\*- or Rs.1,43,748/\*-; linked to tuition fee to be collected from Govt. sponsored candidates, as above.

[Note:\* It is agreed that, these are the upper limits of the fees that could be charged: the individual colleges, seeking otherwise, would fix the fees within these limits and notify appropriately. It is agreed that for engineering courses, the managements of colleges, may fix different fees for different subjects/disciplines, depending on the subject within the aforesaid upper limit].

The colleges shall submit a detailed report with the particulars of the candidate wise fees to Director of Technical Education.

**Summary of fee structure and percentage of seats:**

**[Effective in terms of stipulation as above]**

**ENGINEERING & ARCHITECTURE**

A – Govt. CET	B – COMED-K	C – NRI & others
Total seats – 45%	Total seats - 30%	Total – 25%
i. Rs. 65,340/-	i. Not exceeding Rs. 1,43,748/-	-an upper limit of fees payable including development fees for the entire course shall be notified by each of the private institutions and fees shall be collected accordingly.
ii. Rs. 58,806/-	ii. Not exceeding Rs. 2,01,960/-	
[Rs. 65,340/- or Rs. 58,806/- as the case may be linked to upper limit of fees stipulated for COMEDK candidates- Rs. 1,43,748/- or Rs. 2,01,960/- ]	[Rs. 1,43,748/- or Rs. 2,01,960/- as the case may be linked to upper limit of fees stipulated for Govt. CET, as may be opted for by colleges]	

**E. MODALITIES FOR ADMISSIONS:**

- a] Seats lying vacant under CET quota as on the last day of the casual vacancy round be taken up for allotment for supplementary students by KEA at Government-prescribed fees. In the additional round of counseling, after any seats remaining vacant shall be handed over to the concerned colleges after reconciliation.



- b] The counseling by the Government KEA (CET Cell) shall be completed by 31/7/2019 as per the directives of the Hon'ble Supreme Court in Parshwanath Charitable Trust case and last date for joining shall be notified to the candidates of Government CET stipulating a date before the mandatory/last date of admissions; as fixed by the Universities concerned or by the regulating authorities whichever is earlier; to enable the Managements to fill up remaining 'unfilled seats', which shall be their entitlement. No extension of dates shall be permissible, except with the express consent of the concerned Universities/regulatory authorities.
- c] All Professional Colleges; shall grant admissions on receipt of admission order issued by the counseling authorities of Government KEA (CET) or COMED-K; and on submission of documents pertaining to qualification etc., to the concerned colleges. A joining time shall be granted by the counseling authorities to facilitate the students to report at the college and, complete other admission formalities. The respective colleges shall report to the KEA about details of students who have reported for admission to the college or otherwise.
- d] Candidates who select seats have to submit the required 'fees' in the form prescribed to the respective Counseling Agencies or in favour of selected institution as may be stipulated. Any concessions or exemptions from payment of fees under any scheme over and above, as worked out, as per fee structure above, will become payable forthwith by the respective agencies granting such concessions.
- e] Default in reporting by the date fixed by the Counseling Agencies, within the stipulated time would result in cancellation of seats. Surrender and forfeiture/penalty clause as per the rules and regulations of Government CET/COMED-K are strictly made applicable respectively, to such of the candidates.
- f] State Government seeking to implement and provide for its reservation policy in furtherance of Article 15(5) of the Constitution of India and desiring to take by itself the responsibility to identify the candidates and provide for such reservations to SC, ST, OBC and any other category, in terms of the law or



requirements, making it applicable to aforesaid handed over / transferred seats, namely 45% of seats in Engineering stream respectively and same shall be deemed discharge of any such requirements/ compliance without need to so separately provide for, under management's admissions.

g] Reservation to the candidates under Hyderabad-Karnataka region as stipulated in Government Orders is applicable to all the candidates whether under Government Quota or COMED-K quota.

h] Fee Regulatory Committee / Admission Overseeing Committee ensure the implementation of 'fee structure'; consensually arrived at, as indicated above and, also to ensure the implementation of the regulations, as entered into in the 'consensual agreement' now arrived at. It shall receive the complaints and resolve the disputes/differences, if any, among all the stake holders, affording opportunity of being heard to the other party. All assistance will be extended by KUPECA institutions to any statutory committees for smooth implementation of the Act.

i] All the seats, remaining unfilled at the end of final round of counseling and prescribed joining time, by all the agencies shall be made over to the respective private professional colleges, to be filled up from amongst other eligible general merit candidates seeking admission to individual colleges, so as to avoid any wastage of available seats.

j] Government will ensure that, any kind of intervention, regarding the 'consensual agreement', thereby disrupting these arrangements are appropriately addressed.

**F. ADDITIONAL CONDITIONS:**

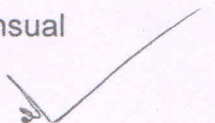
1] Any member college could surrender additional or all the available seats in the respective quota, to the government CET or COMEDK, in writing with copy to The Additional Chief Secretary to Government, Higher Education/COMED-K before the commencement of the first round of counseling.



- 2] All lateral entry diploma students admitted by government agencies under government's 20% quota shall pay same fees as payable by KEA/CET general merit category students (Rs.53,460 p.a.or Rs.59,400 p.a.).
- 3] All first year vacant seats in the same branch, can be offered to diploma students at the 3<sup>rd</sup> semester level, as lateral entry admissions as per the order of the Hon'ble High Court of Karnataka in W.P.No. 25265/2012 c/w W.P.No.25265/2009 & 27399/2010.
- 4] No mutual transfer of seats will be done by KEA (CET)/DTE/Government after the final round of counseling.
- 5] KEA (CET) counseling for supplementary students is to be available only to supplementary exam students, but the admission formalities shall be completed before 31.7.2019 as per the directives of the Hon'ble Supreme court for Engineering courses.
- 6] Reconciliation of seats, shall be completed after completion of final round of counseling by KEA, on default, all vacancies shall be deemed to have been reconciled as vacant seats to be filled by private managements as vacant seats, on reconciliation.
- 7] Those admissions through CET to private colleges shall be only of Karnataka students [as of previous years].

### G. OTHER ISSUES

- a) It is agreed that, government would make further and requisite legislation, if required to implement this consensual agreement and issue necessary notifications and facilitate working out this consensual agreement. Notwithstanding the delay in steps being taken as above; this 'consensual agreement' binds the parties, including the students admitted in terms of this agreement for the academic year 2019-20 and government shall ensure the implementation thereof.
- b) To avoid any unnecessary litigation as to and in the matter of 'consensual agreement' now being entered into between government and KUPECA





relating to the seat sharing, admission process and/or fee structure for the batch of students, being admitted for the academic year 2019-20 through COMED-K or governmental UGET and or, any other issues connected with it, the parties agree to place it before the Hon'ble Supreme Court, as in previous years and, seek approval thereof; by consenting to continuation of such arrangement seeking requisite interim orders as sought in previous years; and also issue requisite notifications in furtherance of this agreement.

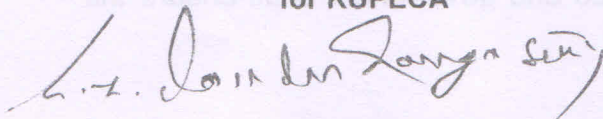
- c) If the student drops down his studies in the middle of the course, the institutions shall not retain student's marks cards and other essential original certificates and should follow the AICTE guidelines/ norms in this regard.
- d) All professional Institutions should mandatorily take the approval of the AICTE for Technical Courses. They should also take the approval of the concerned affiliated body and the State Government for affiliation. Government will not publish the seat matrix of those colleges which do not take the necessary affiliation from State Government.
- e) Without any reasons, the Professional Institutions should admit all the candidates who are allotted by KEA. If there is no demand for the course/courses or if there are no admissions in that particular course, such courses should be closed by the concerned Institutions before April 2019 in the interest of students.

**Note-** 'Counseling by KEA/CET, wherever these terms appear in this consensual agreement shall mean and include 'counseling by online' by KEA/CET'.

Signed by and between THE GOVERNMENT OF KARNATAKA and THE KARNATAKA UNAIDED PRIVATE ENGINEERING COLLEGES' ASSOCIATION [KUPECA], on this the

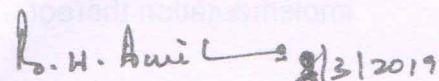
2<sup>nd</sup> day of March 2019 at Bangalore.

On behalf of and  
for KUPECA



(M.K. Panduranga Setty)  
Secretary, KUPECA

On behalf of and  
for Government of Karnataka



(B.H. Anil Kumar)  
The Additional Chief Secretary to Govt.,  
Education Department,  
(Higher Education)